

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CAMERON FITTS, ET AL.,

Case No. 12-13575

Plaintiffs,

v.

SENIOR UNITED STATES DISTRICT JUDGE
ARTHUR J. TARNOW

RICK SNYDER, ET AL.,

MAGISTRATE JUDGE R. STEVEN WHALEN

Defendants.

**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION [27] AND DENYING PLAINTIFFS' MOTION FOR
CERTIFICATION OF CLASS ACTION [4]**

Before the Court is pro se Plaintiffs' Motion for Certification of Class Action [4], filed on August 13, 2012. On March 13, 2013, the Magistrate Judge issued a Report and Recommendation [27] recommending that the Court deny Plaintiffs' Motion [4].

On August 13, 2012, Plaintiffs Cameron Lee Fitts, Michael Leon Davis, and Kenneth Wilson filed a Complaint [1] under 42. U.S.C. § 1983, on behalf of themselves and all similarly situated Michigan Department of Corrections inmates. Plaintiff's instant Motion [4] seeks to certify this class under Federal Rules of Civil Procedure Rule 23.

The Report and Recommendation [27] recommends denying Plaintiffs' Motion [4] because it fails to meet the criteria of Rule 23(a)(4), which requires that the "representative parties will fairly and adequately protect the interests of the class." As the Magistrate Judge notes, it is established that while pro se plaintiffs without legal training may bring their own claims, they cannot represent the interests of a class. *See Howard v. Dougan*, 2000 U.S. App. LEXIS 15574, at *4 (6th Cir. June 23, 2000).

On March 27, 2013, Plaintiff Kenneth Wilson filed Objections [33] to the Report and Recommendation [27]. Plaintiff Wilson makes three separate objections. Plaintiff Wilson's first objection states that the Michigan parole board has adopted rules and policies that are in violation of the Administrative Procedures Act, Michigan law, and the "constitutional provision of Due Process."

Plaintiff Wilson's second objection further details these alleged violations, listing specific laws that are at issue. Plaintiff argues that the "Due Process Requirement was violated through lack of notification about rule changes or amendments, and not allowing prisoner participation in the parole process." Within this second objection, Plaintiff also asserts that the parole board "cannot apply current laws recently enacted, to sentences from the 1970's and 1980's. The law must be from the time of sentencing..."

Plaintiff Wilson's third and final objection argues that Defendants' claim of qualified immunity cannot stand because Defendants knowingly violated state regulations.

Plaintiff Wilson's objections address Plaintiffs' substantive claims. The objections do not address the instant Motion for Certification of Class Action [4] and do not dispute the findings within the Report and Recommendation.

Accordingly,

The Report and Recommendation [27] of the Magistrate Judge is hereby **ADOPTED** and is entered as the findings and conclusions of the Court.

IT IS ORDERED that Plaintiffs' Motion for Certification of Class [4] is **DENIED**.

If Plaintiffs Cameron Lee Fitts and Michael Leon Davis file further objections to the

Magistrate Judge's Report and Recommendation [27] within the time limitations as noted within the Report and Recommendation [27], the Court will reconsider this Order.

SO ORDERED.

s/Arthur J. Tarnow
ARTHUR J. TARNOW
SENIOR U.S. DISTRICT JUDGE

Dated: March 29, 2013

CERTIFICATE OF SERVICE

I hereby certify on March 29, 2013 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on March 29, 2013: **Cameron Fitts, Michael Davis, Kenneth Wilson.**

s/Michael E. Lang
Deputy Clerk to
District Judge Arthur J. Tarnow
(313) 234-5182